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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,759	12/30/2003	Nathaniel Blake Scholl	249768082US	2699
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PERKINS COIE LLP			EXAMINER	
PATENT-SEA			RETTA, YIHDEGA	
P.O. BOX 1247			ART UNIT	
SEATTLE, WA 98111-1247			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,759

Applicant(s)

SCHOLL ET AL.

Examiner

Yehdega Retta

Art Unit

3622

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4 and 6-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 6-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Amendment

This office action is responsive to Request for Continued Examination filed March 31, 2008. Applicant amended claims 1, 4, 9-16, and canceled claims 22-34. Claims 1, 2, 4, and 6-21 are currently pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calabria et al. (US 2005/0137939) in view of Bronnimann et al. (US 2004/0044571).

Regarding claims 1, 2, Calabria teaches an advertisement generators that each use a different algorithm to automatically generate an advertisement sets for advertiser (see [0052]-[0055] [0121]); each advertisement set having a keyword and an advertisement; a fee calculator that calculates fee amounts for advertisements based on anticipated profitability of the advertisement sets (see [0013], [0019] – [0023] an advertisement submitter that sends to an advertisement placement service a request to place the advertisement along with content associated with the keyword at the fee amount of an advertisement set; and an advertisement manager that receives from the advertisement generator advertisement sets, receives from the fee calculator a fee amount for each advertisement set, and provides to the advertisement submitter

the selected advertisement sets that each have an advertisement, a keyword, and a fee amount (see [0035] – [0040], [0044]– [0047], [0109]). Calabria does not explicitly teach generating advertisement sets wherein each generated advertisement set having different advertisement for a single keyword, it is taught in Bronnimann. Bronnimann teaches advertiser generating a plurality of advertisement sets, each advertisement set including different advertisement for a keyword and tracking click-through rates to determine which of the advertisement was more efficient (see [0010]–[0016], [0048] – [0054]). It would have been obvious to one of ordinary skill in the art at the time of the invention to generate more than one advertisement for a single keyword to track the most efficient advertisement for the keyword in order to maximize relevancy and effectiveness of the advertisement as taught in Bronnimann.

Regarding claims 4, 7, 8, Calabria teaches the advertisement manager selects one of the multiple advertisement sets based on analysis of the likelihood of users selecting the advertisement when it is placed along with a content associated with the keyword; a database containing statistics relating to placements of advertisements and wherein the fee calculator determines anticipated profitability based on analysis of the statistics; wherein the statistics include average cost-per-click of an advertisement and average revenue-per-click (see [0120]–[0123], [0133]– [0147]). Bronnimann also teaches selecting advertisement sets, based on the analysis (tracking click-through rates to determine which of the advertisement was more efficient) (see [0010]–[0016], [0048] – [0054]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to select the advertisement based on the analysis in order to select the most effective advertisement.

Regarding claim 6, Calabria teaches multiple advertisement submitters where each advertisement submitter is associated with an advertisement placement service (see [0153]).

Claims 9-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bronnimann et al. (US 2004/0044571) in view of Calabria et al. (US 2005/0137939).

Regarding claims 9, 10, 13-18, Bronnimann teaches advertiser generating a plurality of advertisement sets, each advertisement set including different advertisement for a keyword (see [0010]; specifying a bid amount for each advertisement ([0004], [0010]; wherein the bid amount is based on advertising metrics, profit, revenue, etc; determining whether an advertisement set is currently submitted to an advertisement placement service for the keyword; submitting to the advertisement placement service a request to place the advertisements specified by the selected advertisement sets; analyzing the effectiveness of the placed advertisement, the effectiveness of the placed advertisement being based on at least financial benefit of placing the advertisement; and subsequently selecting advertisement sets for placement of advertisements based on the analysis, so that the selected advertisement set does not conflict with an advertisement set that is currently submitted to the advertisement placement service for the keyword (see [0048]-[0054]). Bronnimann does not explicitly teach when an advertisement set is not currently submitted to the advertisement placement service for the keyword, selecting one of the generated advertisement sets for submission to the advertisement placement service. Calabria teaches selecting a keyword combination, providing an estimate of return on investment for the bid associated with the keyword combination analyzing; the effectiveness of the placed advertisements for each-the advertisement sets, the effectiveness of an advertisement being based on at least financial benefit

of placing the advertisement; and selecting advertisement sets for placement of advertisements based on the analysis (see [0035]-[0040], [0044]-[0047], [0052]-[0055], [0109], [0121]). It would have been obvious to one of ordinary skill in the art at the time of the invention to evaluate the effectiveness of each advertisement and to select the most effective advertisement of Bronnimann, based on the evaluation of each advertisement, in order to maximize profit.

Regarding claims 11, 12 and 19, Bronnimann teaches placing the advertisement with search result associated with a search term matching the keyword; placing with content associated with keyword (see [0004]-[0010], [0041]-[0044]).

Regarding claims 20 and 21, Bronnimann does not explicitly teach the generated advertisement sets are based on frequency or desirability of keywords. Official notice is taken that is old and well known in the art of search engines to determine search terms based on frequency or desirability of the keyword in a content. It would have been obvious to one of ordinary skill in the art at the time of the invention to know that the advertiser's of Bronnimann would select the keyword based on frequency or desirability of the keyword in order to provide the most relevant content or information to the user.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4, and 6-21 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/
Primary Examiner, Art Unit 3622